

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 85 of 2001.

Judgment reserved on:13.7.2007.

Date of decision:20.7.2007.

Milap Chand	..	..Petitioner
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Versus

State of H.P. Respondent

Coram:

The Hon'ble Mr. Justice Deepak Gupta, J.

Whether approved for reporting ?

For the Petitioner: Mr.Dushyant Dadhwal, Advocate.

For respondent: Mr.R.M.Bisht, Dy.A.G.

Deepak Gupta, J.

This Revision is directed against the judgment of the learned Sessions Judge, Kangra passed in Criminal Appeal No.9-P/X-99 decided on 30.4.2001 whereby he has upheld the judgment passed by the learned Additional Chief Judicial Magistrate, Palampur in Criminal Case No.169-II/94 decided on 10.5.1999 convicting the accused of having committed offences under Sections 279 and 304-A IPC and consequently sentencing him to pay fine of Rs.500/- for the offence under Section 279 IPC and simple imprisonment for one year for the offence under Section 304-A IPC.

Brief facts necessary for decision of the case are that as per the prosecution on 2.9.1994 at about 7.15 p.m. the accused was driving truck No.HPK-5628 near Bhikha Shah. It is alleged that accused was driving the truck in a rash and negligent manner as a result of

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which the truck hit one Kishori Lal who was walking on the side of the road. Kishori Lal fell down and sustained injuries and died.

I have gone through the evidence on record. PW-2 Rani Devi has stated that when she was going on the road the truck in question came in a rash speed and hit Kishori Lal who fell down. The truck did not stop and fled away from the site of the accident. In cross examination she has admitted that Kishori Lal had consumed liquor and was staggering when the accident took place. She also admits that she cannot positively identify the truck with which the accident took place. She also has admitted that she has seen the accused for the first time in the Court.

PW-3 Pinki Devi has made a similar statement. According to her she heard a sound and when she turned she found that Kishori Lal had been hit by the truck and had fallen down. The truck driver fled away from the spot alongwith the truck. She also states that though Kishori Lal had fallen on the pucca portion of the road, his legs were on the kacha portion.

PW-4 Om Parkash is the son of the deceased Kishori Lal. He submits that he also witnessed the accident. According to him Truck No.5628 came from Daroh side and that the accused was driving the same. The truck was at a high speed and hit his father and fled away.

PW-5 Milap Chand states that he saw Kishori Lal going down the road and then he suddenly heard a noise

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that Kishori Lal has been crushed under a truck. He ran to the spot and saw the truck moving away at a very high speed. The head of the deceased was on the road and his legs were outside the road. The truck driver fled away but he was caught at the bus stand near Bhawarna.

Both the Courts below on appreciation of the evidence have come to the conclusion that the deceased was hit by the truck driven by the accused. Interestingly a suggestion has been put to the Investigating Officer, Uttam Chand, PW-12 that the truck was parked near the hospital and the people had stopped the truck near the hospital. This suggestion was admitted to be correct by the Investigating Officer. A suggestion has also been put to him that truck was being driven by one Desh Raj.

As far as identity of the accused is concerned he has been identified by PW-4 Om Parkash. The number of the truck has been given by both Rani Devi and Om Parkash. This version of the witnesses is supported by MLC PW-7/A which shows that the accused was examined by the doctor at 12.30 mid-night and it was found that he has sustained simple injuries after he was apprehended by the villagers and beaten by them.

Taking all these facts into consideration I am of the view that both the Courts below have decided the case on the basis of the evidence and material before them. There is no infirmity or irregularity in the judgments of the courts below calling for interference

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in revisional proceedings. Revision Petition is accordingly dismissed. Bail bonds furnished by the accused are cancelled.

July 20, 2007.
PV

(Deepak Gupta),
Judge